



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2021-0066; Notice 1]

Volkswagen Group of America, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Volkswagen Group of America, Inc., (Volkswagen), has determined that certain model year (MY) 2021 Audi motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 135, *Light Vehicle Brake Systems*. Volkswagen filed a noncompliance report dated July 26, 2021. Volkswagen subsequently petitioned NHTSA on August 25, 2021, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of Volkswagen's petition.

DATES: Send comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590.
- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room

W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal Holidays.

- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <https://www.regulations.gov/>, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at <https://www.regulations.gov/> by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000 (65 FR 19477-78).

FOR FURTHER INFORMATION CONTACT: Vince Williams, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (202) 366-2319, Vince.Williams@dot.gov.

SUPPLEMENTARY INFORMATION:

I. Overview: Volkswagen determined that certain MY 2021 Audi A6 Sedan, A6 Allroad, A7, RS6 Avant, RS7, S6 sedan, and S7 motor vehicles do not fully comply with paragraph S5.4.3 of FMVSS No. 135, *Light Vehicle Brake Systems* (49 CFR 571.135).

Volkswagen filed an original noncompliance report dated July 26, 2021, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Volkswagen petitioned NHTSA on August 25, 2021, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of Volkswagen's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or another exercise of judgment concerning the merits of the petition.

II. Vehicles Involved: Approximately 4,267 MY 2021 Audi A6 Sedan, A6 Allroad, A7, RS6 Avant, RS7, S6 sedan, and S7, manufactured between January 11, 2021, and April 14, 2021, are potentially involved:

III. Noncompliance: Volkswagen explains that a small number of the subject vehicles may have a European-specification brake fluid reservoir cap instead of the one required for the North American/United States market as required by paragraph S5.4.3 of FMVSS No. 135.

Specifically, the subject brake fluid reservoir caps may not include the required warning label.

IV. Rule Requirements: Paragraph S5.4.3 of FMVSS 135, includes the requirements relevant to this petition. Each vehicle equipped with hydraulic brakes shall have a brake fluid warning statement that reads as follows, in letters at least 3.2 mm ($\frac{1}{8}$ inch) high: "WARNING: Clean filler cap before removing. Use only _____ fluid from a sealed container." (Inserting the

recommended type of brake fluid as specified in 49 CFR 571.116, e.g., “DOT 3.” The lettering shall be permanently affixed, engraved, or embossed, located so as to be visible by direct view, either on or within 100 mm (3.94 inches) of the brake fluid reservoir filler plug or cap, and of a color that contrasts with its background, if it is not engraved or embossed.

V. Summary of Volkswagen’s Petition: The following views and arguments presented in this section, “V. Summary of Volkswagen’s Petition,” are the views and arguments provided by Volkswagen. They have not been evaluated by the Agency and do not reflect the views of the Agency. Volkswagen describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

Volkswagen explains that it believes the subject noncompliance to be inconsequential to motor vehicle safety because “the brake fluid cap shows clearly the specification of the brake fluid required” and “provides clear symbols including one for caution and one for referring to owner manual instructions. The manual indicates the proper brake fluid specification for use in the vehicle.” Volkswagen also states that the “brake fluid cap conforms to the requirements of ISO9128”2006 which is a requirement of UN-ECE Regulations 13 and 13h.”

Volkswagen contends that the following previous grants of inconsequentiality petitions support NHTSA’s granting of its petition for the subject noncompliance:

- Jaguar Land Rover North America, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 84 FR 13095 (April 3, 2019).
- Ford Motor Company, Grant of Petition for Decision of Inconsequential Noncompliance, 78 FR 69931 (November 21, 2013).
- Hyundai Motor Company, Grant of Petition for Decision of Inconsequential Noncompliance, 73 FR 38290 (July 3, 2008).

According to Volkswagen, “service to the brake system involving an exchange of the brake fluid is not a standard maintenance activity” and repairs to the brake system “requires

basic technical knowledge regarding the brake system and should be performed by a trained technician.”

Volkswagen states that it has not received any field or customer complaints or notification of any accident or injuries related to the subject noncompliance. Further, Volkswagen states that as of April 14, 2021, production of the subject vehicles has been corrected and the vehicles “at the factory have been corrected and unsold units will be correct prior to sale.”

Volkswagen concludes by stating its belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety and its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that Volkswagen no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Volkswagen notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke, III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2022-13079 Filed: 6/16/2022 8:45 am; Publication Date: 6/17/2022]